IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

FRIDAY, THE FIRST DAY OF APRIL,
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and

THE HON'BLE SRI JUSTICE B.SESHASAYANA REDDY

WRIT APPEAL NO : 648 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 06/02/2002 in WP No.3350 of 2001 on the file of the High Court.)

Between:

D. Ibrahim Khan, S/o. D. Aziz Khan,
D.No. 12-2-168, Bellary Road,
Rayadurg, Anantapur District.

..... APPELLANT

AND

1 A.P. State Wakf Board, Manoranjan Complex, Block No. IV, M.J. Road, Hyderabad Rep by its Chief Executive Officer
2 D. Abdul Wahab, S/o. D. Silab Saheb, Retired Executive Engineer, Rayadurg Ananatapur District.

.....RESPONDENT(S)

Counsel for the Appellant : Sri O.MANOHER REDDY

Counsel for the Respondent No.1: Sri A.M.QURESHI
(S.C. for A.P. Wakf Board)

Counsel for the Respondent No.2: Sri Syed Shareef Ahmed

The Court made the following :

W.A.No.648 of 2005

HCJ, & BSSR, J

ORAL JUDGMENT: (Per Hon'ble the Chief Justice)

Writ Petition was filed by the appellant – petitioner to declare the order passed by the first respondent dated

02nd November, 2000 appointing the second respondent as Muthawalli of Dammahayat Pedda Masjid, Rayadurg, Anantapur district, and its attached properties, as illegal, arbitrary and without jurisdiction. Writ Petition was dismissed by the learned single Judge on the ground that since the petitioner is claiming succession to the property, same has to be got adjudicated by the petitioner under Section 83 of the Wakf Act, 1995 inasmuch as the disputed questions whether the petitioner is a legal heir and succeeded to the property or whether it is a Wakf property or not, are matters over which the Tribunals constituted under the Act have got jurisdiction. Writ Appeal is filed against the order dismissing the writ petition with liberty reserved to the petitioner to approach the Tribunal under the Act. During the pendency of writ appeal, WAMP No.1242 of 2005 has been filed seeking stay of further proceedings pursuant to notice issued by the first respondent dated 05th February, 2005.

Notice, which has now been issued on

05th February, 2005 is in exercise of powers under Section 54(3) of the Wakf Act, 1995 ordering the petitioner to remove the encroachments and deliver vacant possession of the land to I.A.Wakf, Anantapur district, within fifteen days, failing which action is intended to be taken under Section 55 of the said Act.

Needless to add that order passed under Section 54 of the Act by the first respondent does not preclude the petitioner, aggrieved by such an order, from instituting a suit in the Tribunal constituted under the Act to establish his rights, title and interest in the land. As such, no relief as regards order dated

05th February, 2005 can be granted. Insofar as the order, which is impugned in the writ petition is concerned, any mutawalli person interested in a wakf or any other person aggrieved by an order made under the Act or the Rules made thereunder, is entitled to make an application within the time specified in the Act, and where no such time has been specified, within such time as may be prescribed, to the Tribunal for resolution of disputes relating to wakf property. Since the petitioner has been prosecuting the remedy in writ appeal, we direct that in case the petitioner will approach the Tribunal under the Wakf Act, 1995 within a period of one month from today, the same will be duly adjudicated upon by the Tribunal in accordance with law, and for a period of one month from today, *status quo* as regards possession shall continue to be maintained.

The writ appeal is accordingly disposed of.

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DEVINDER GUPTA, C.J.

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B.SESHASAYANA REDDY, J

01-04-2005

bsc

.....REGISTRAR

To

1. The Chief Executive Officer, A.P. State Wakf Board, Manoranjan

Complex, Block No. IV, M.J. Road, Hyderabad.

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